IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.74 OF 2005

Abdul Shakir Siddiqui .. Appellant
Org.Plaintiff.

vs.

The Municipal Corporation of
Greater Mumbai. .. Respondent.
Org.Defendant

Mr. P.K.Dhakephalkar i/b. M/s.Khilani & Co. for the Appellant.

Ms Geeta Joglekar for the Respondent.

CORAM : A.S.OKA, J.

DATED : 12th April, 2005.

P.C. :

1. This Appeal from Order was heard on 5.4.2005 and is kept today for dictation of judgment.

2. The challenge in this Appeal from Order is to the judgment and order dated 12th January, 2005 passed by the learned trial Judge by which prayer for ad-interim injunction made by the Appellant-Plaintiff has been refused. The learned trial Judge while considering the prayer for grant of ad-interim relief has come to the prima facie conclusion that certain documents relied upon by the Appellant-Plaintiff are got up documents and

therefore the said documents are ordered to be impounded and have been kept in a sealed cover in the safe custody of the Registrar. By an order passed in this Appeal from Order, the said documents were called to this Court.

3. The learned Counsel appearing for the Appellant submitted that the scope of enquiry while considering the prayer for grant of ad-interim injunction was very limited. He submitted that there was no reply filed by the Respondent Corporation and it was nobody's case that the documents which are produced by the Appellant-Plaintiff were fabricated or got up documents. He submitted that the documents relied upon by the Appellant are very old documents and in a depth inquiry was required to be made before coming to the conclusion that the said documents were got up documents.

4. After arguing the appeal for some time, the learned Counsel for the Respondent submitted that it is apparent that some of the documents on which reliance is placed are fabricated documents. The learned Advocate for the Respondent stated that the Respondent desires to file a reply to the Notice of

Motion for the purpose of raising the said contention. The learned Advocate, therefore, submitted that time may be granted to the Respondent Corporation to file reply and the Notice of Motion be ordered to be decided in a time bound programme.

5. In view of the submissions made by the learned Advocate appearing for the Respondent, it is not necessary to record any finding on the various contentions raised by the Counsel appearing for the Appellant. The order directing impounding of the documents deserves to be set aside. However, the documents which are kept in the custody of the Registrar of the City Civil Court will remain in his custody till the Notice of Motion is decided finally.

6. Hence I pass the following order:

i) The impugned judgment and order is quashed and set aside.

ii) The Respondent-Corporation will file reply to the Notice of Motion within a period of four weeks from today.

iii) The Notice of Motion shall be finally decided on or before 15.7.2005. All contentions of both the parties are expressly kept open.

iv) Till the Notice of Motion is decided finally, both the parties will maintain status quo in all respects in respect of the suit structure.

v) The documents which are kept in the safe custody of the Registrar of the City Civil Court by the impugned judgment and order will continue to be in the custody of the Registrar of the City Civil Court subject to final order which may be passed by the said Court in the pending Notice of Motion.

vi) The Office of this Court is directed to forward the said documents in a sealed envelope to the Registrar of the City Civil Court.

vii) Appeal is partly allowed in above terms with not order as to costs.

. Parties and the concerned Court to act on the authenticated copy of this order.

(A.S.Oka, J.)